

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: ( Brotherhood Railway Carmen of the United States  
( and Canada  
(  
( Western Fruit Express Company

Dispute: Claim of Employees:

1. That the Western Fruit Express Company violated Rule 14 of the controlling Agreement when they failed to bulletin the regular bid position assigned to assemble and repair car doors, which was vacated due to the retirement of Carman F. C. Brisinda and improperly abolished said position.
2. That accordingly, the Western Fruit Express Company be ordered to reestablish the position of carman assigned to assemble and repair car doors and that such position be advertised in accordance with Rule 14.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On September 20, 1978, Carman F. C. Brisinda was awarded a position which was defined in a previous advertisement (dated September 16, 1968) as, "Car Repairer, Assemble and repair of Car doors in Mill Building No. 1" at the Hillyard Shop in Spokane. Mr. Brisinda occupied the position until his retirement on January 31, 1980. The Carrier abolished the position described in the September 16, 1968 advertisement by a bulletin dated February 11, 1980.

The Organization alleges that between February 1, 1980 and February 11, 1980 as well as after the abolition of the position formerly filled by Mr. Brisinda, the Carrier has assigned Carman C. A. Rickard to perform the same car door rebuilding, assembly and repair duties which Mr. Brisinda had performed for over eleven years. Therefore, the Organization argues that Rule 14 of the applicable Agreement both prevented the Carrier from abolishing the full time car door repair position and mandated the Carrier to bulletin the vacancy created as a result of Mr. Brisinda's retirement.

According to the Carrier, it reasonably determined that there was no necessity for maintaining a position exclusively devoted to repairing car doors. The Carrier decided to rearrange the work previously performed by Mr. Brisinda and it has not

only assigned some of the work to Mr. Rickard but also other Carmen consistent with the Carmen's Classification of Work provision in the scheduled Agreement (Rule 35). Furthermore the Carrier claims the Organization has failed to cite any rule which prohibited it from abolishing the position on February 11, 1980.

The Organization relies solely on Rule 14 which states:

"When new jobs are created or vacancies occur in the respective departments, the oldest employe in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them. All vacancies or new jobs created will be bulletined. Bulletins will be posted five (5) days before vacancies are filled permanently. Employees desiring to avail themselves of this rule will make application to the Shop Superintendent and furnish copy of the application to the local committee." (Emphasis added).

Rule 14 does not contain any language which expressly barred the Carrier from abolishing the car door repair position on February 11, 1980. See Second Division Award No. 6857 (Twomey). Rule 14 does mandate that all vacancies should be advertised by bulletin but, in this case, after the position was abolished, there was no longer a vacancy. Furthermore, the Organization concedes that the car door repair duties could be assigned to Carmen within the course of performing other car repair work. Thus, the Carrier could rearrange the duties so that after Mr. Brisinda's retirement, it was not necessary to preserve an exclusive car repair door position at the Hillyard Shop. See Third Division Award No. 20726 (Lieberman).

After the abolition of the position, the Carrier has been properly assigning car door repair and rebuilding work to members of the Carmen's craft in accord with Rule 35.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Acting Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 22nd day of July, 1982.